

Familian corp

April 28, 1997

RECEIVED
SUNSHINE PERIOD
MAY 6 1997

Commissioner Susan Ness
Federal Communications Commission
1919 M St. NW Room 802
Washington, DC 20554

Re: Ex parte contact in CC Docket Nos. 96-45 and 96-262

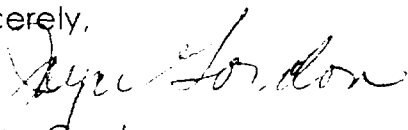
Dear Chairman :

We understand that the FCC is considering a proposal to increase the business line Subscriber Line Charge and to impose a new charge, reportedly called FER0, of at least \$4.50 per line per month to support extending new telecommunications capabilities to schools, libraries and rural health care facilities. At the same time that it is considering imposing these new costs on American businesses, we are told that the Commission will not take the long overdue step of bringing rates closer to the true economic cost of local access services.

I urge you not to adopt the foregoing proposals which would, in effect, impose a new tax on American businesses, regardless of whether it is characterized as a "rate balancing" or "modification of rate structures". With all due respect, we believe that the imposition of such nationwide educational and health care initiatives should be considered on a comprehensive basis by all interested authorities, not just as a telecommunications matter by the FCC.

The time has come for the Commission to reform its rules governing access charges, which are more than \$3 billion a year higher that they should be. All consumers, businesses as well as residential, deserve protection from excessive monopoly prices. The Administration's social policy agenda should be addressed in other ways and not get in the way of these reforms.

Sincerely,



Joyce Gordon
Communications Administrator

SUNSHINE PERIOD

The Salk Institute for Biological Studies

April 28, 1997

MAY 6 1997

APR 29 2 15 PM '97

Commissioner Susan Ness
Federal Communications Commission
1919 M St. NW Room 814
Washington, DC 20544

Re: Ex parte in CC Docket Nos. 96-45 and 96-262

Dear Commissioner Ness:

I understand that the FCC is considering a proposal to increase the business line Subscriber Line Charge and to impose a new charge, reportedly called a FERRO, of at least \$4.50 per line per month to support extending new telecommunications capabilities to schools, libraries and rural health care facilities. At the same time that it is considering imposing these new cost on American businesses, we are told that the Commission will not take the long overdue step of bringing rates closer to the true economic cost of local access services.

I urge you not to adopt the foregoing proposals which would, in effect, impose a new tax on American business, regardless of whether it is characterized as a "rate rebalancing" or "modification of rate structure". With all due respect, we believe that the imposition of such taxes is the business of the people's representatives, not appointed officials. Moreover, nationwide educational and health care initiatives should be considered on a comprehensive basis by all interested authorities, not just as a telecommunications matter by the FCC.

The time has come for the Commission to reform its rules governing access charges, which are more than 3 billion a year higher than they should be. All consumers, businesses as well as residential, deserve protection from excessive monopoly prices. The Administration's social policy agenda should be addressed in other ways and not get in the way of these reforms.

Sincerely,



Verrell V. Fultz

Telecommunications Administrator
The Salk Institute

Cc: Chairman Reed E. Hundt

Commissioner Rachelle B. Chong

Commissioner James H. Quello



SUNSHINE PERIOD

Air Products and Chemicals, Inc.
7201 Hamilton Boulevard
Allentown, PA 18195-1501
Telephone (610) 481-4911

28 April 1997

Commissioner Susan Ness
Federal Communications Commission
1919 M St. NW Room 832
Washington, DC 20554

Re: Ex parte contact in CC Docket Nos. 96-45 and 96-262

Dear Commissioner Ness:

We understand that the FCC is considering a proposal to increase the business line Subscriber Line Charge and to impose a new charge, reportedly call a FERRO, of at least \$4.50 per line per month to support extending new telecommunications capabilities to schools, libraries and rural health care facilities. At the same time that it is considering imposing these new costs on American businesses, we are told that the Commission will not take the long overdue step of bringing rates closer to the true economic cost of local access services.

I urge you not to adopt the foregoing proposals which would, in effect, impose a new tax on American businesses, regardless of whether it is characterized as a "rate re-balancing" or "modification of rate structures". With all due respect, we believe that the imposition of such taxes is the business of the peoples representatives, not appointed officials. Moreover, nationwide educational and health care initiatives should be considered on a comprehensive basis by all interested authorities, not just as a telecommunications matter by the FCC.

The time has come for the Commission to reform its rules governing access charges, which are more than \$3 billion a year higher than they should be. All consumers, businesses as well as residential, deserve protection from excessive monopoly prices. The Administration's social policy agenda should be addressed in other ways and not get in the way of these reforms.

Sincerely,

Virgil W. Palmer
Manager, Computing and Telecommunications
Infrastructure Services

RECEIVED
OFFICE OF
COMMUNICATIONS
APR 29 2 13 PM '97

MAY 6 1997

Familian corp

April 28, 1997

Commissioner James H. Quello
Federal Communications Commission
1919 M St. NW Room 802
Washington, DC 20554

MAY 5 10 57 AM '97

MAY 6 1997

SUNSHINE PERIOD

Re: Ex parte contact in CC Docket Nos. 96-45 and 96-262

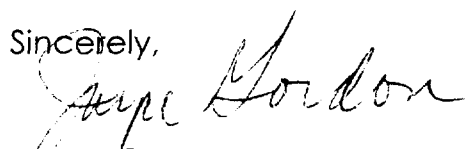
Dear Chairman ;

We understand that the FCC is considering a proposal to increase the business line Subscriber Line Charge and to impose a new charge, reportedly called FER0, of at least \$4.50 per line per month to support extending new telecommunications capabilities to schools, libraries and rural health care facilities. At the same time that it is considering imposing these new costs on American businesses, we are told that the Commission will not take the long overdue step of bringing rates closer to the true economic cost of local access services.

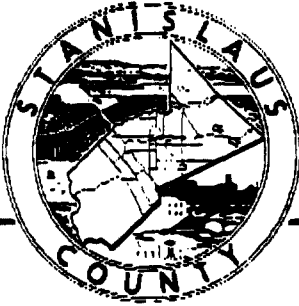
I urge you not to adopt the foregoing proposals which would, in effect, impose a new tax on American businesses, regardless of whether it is characterized as a "rate balancing" or "modification of rate structures". With all due respect, we believe that the imposition of such nationwide educational and health care initiatives should be considered on a comprehensive basis by all interested authorities, not just as a telecommunications matter by the FCC.

The time has come for the Commission to reform its rules governing access charges, which are more than \$3 billion a year higher than they should be. All consumers, businesses as well as residential, deserve protection from excessive monopoly prices. The Administration's social policy agenda should be addressed in other ways and not get in the way of these reforms.

Sincerely,



Joyce Gordon
Communications Administrator



Stanislaus County

DEPARTMENT OF MANAGEMENT INFORMATION SERVICES

SUNSHINE PERIOD

Administration Building
1100 H Street, Rm. 1
Modesto, California 95354-2382
Phone (209) 525-6397
Fax (209) 525-5930

RECEIVED

May 5, 1997

MAY 6 1997

Commissioner James H. Quello
Federal Communications Commission
1919 M Street NW Room 814
Washington, DC 20554

Re: Ex parte contact in CC Docket Nos. 96-45 and 96-262

Dear Commissioner Quello:

We understand that the FCC is considering a proposal to increase the business line Subscriber Line Charge and to impose a new charge, reportedly called a FERRO, of at least \$4.50 per line per month to support extending new telecommunications capabilities to schools, libraries and rural health care facilities. At the same time that it is considering imposing these new costs on American businesses, we are told that the Commission will not take the long overdue step of bringing rates closer to the true economic cost of local access services.

I urge you not to adopt the foregoing proposals which would, in effect, impose a new tax on American businesses, regardless of whether it is characterized as a "rate rebalancing" or "modification of rate structures". With all due respect, we believe that the imposition of such taxes is the business of the people's representatives, not the appointed officials. Moreover, nationwide educational and health care initiatives should be considered on a comprehensive basis by all interested authorities, not just as a telecommunications matter by the FCC.

The time has come for the Commission to reform its rules governing access charges, which are more than \$3 billion a year higher than they should be. All consumers, businesses as well as residential, deserve protection from excessive monopoly prices. The Administration's social policy agenda should be address in other ways and not get in the way of these reforms.

Sincerely,

Charles Wright, MIS Director



SBC Communications Inc.

MAY 6 1997

WASHINGTON, D.C.

FAX COVER SHEET

SUNSHINE PERIOD

DATE: May 5, 1997

TIME: 4:50 PM

TO: COMMISSIONER JAMES H. QUELLO
MR. JIM COLTHARP

FROM: Todd F. Silbergeld
SBC Communications Inc.

PHONE: 202-326-8888
FAX: 202-408-4806

RE: Courtesy Copy of May 5, 1997 Ex Parte Letter

Total Number of pages including cover sheet: 4

Message

URGENT FAX! PLEASE DELIVER IMMEDIATELY!



May 5, 1997

EX PARTE

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: *In the Matters of Federal-State Joint Board on Universal Service and
Access Charge Reform, CC Docket Nos. 96-45 and 96-262*

Dear Mr. Caton:

Please be advised that today the attached letter was delivered on behalf of SBC Communications Inc. and its subsidiaries to Chairman Reed E. Hundt and Commissioners Quello, Ness and Chong.

Please associate this letter and the attachments with the above-referenced rule making dockets. In accordance with Commission procedure, an original and one copy of this document are provided for your use.

Very truly yours,

Todd J. Gilman

Attachment

cc: Chairman Reed E. Hundt
Commissioner James H. Quello
Commissioner Rachelle B. Chong
Commissioner Susan Ness
Mr. Boasberg
Mr. Coltharp
Mr. Casserly
Mr. Gonzalez
Ms. Keeney



May 5, 1997

EX PARTE

The Honorable Reed E. Hundt, Chairman
The Honorable James H. Quello, Commissioner
The Honorable Susan Ness, Commissioner
The Honorable Rachelle B. Chong, Commissioner
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: *In the Matters of Federal-State Joint Board on Universal Service and
Access Charge Reform, CC Docket Nos. 96-45 and 96-262*

Dear Mr. Chairman and Commissioners:

AT&T's May 3, 1997 letter to the Chairman regarding its commitment to flow through access charge reductions is a continuation of its strategy to maximize its own benefits at the expense of others. In the past, AT&T threatened to deaverage nationwide toll prices if it didn't get the action it wanted from the Commission. Now that the Telecommunications Act of 1996 has taken that ploy away, AT&T has chosen residential price increases as its new method of "twisting the Commission's arm." The problem is that things just don't add up. Using the Commission to financially harm incumbent local exchange carriers not only damages AT&T's competitors, but it also will damage the major providers of universal service. Both results are completely contrary to the goals of the 1996 Act.

The Commission is obligated to replace implicit universal service support with explicit support. To accomplish this task requires quantifying the current level of universal service support that exists in interstate prices, removing it, and providing explicit funding. This critical task remains to be completed. The interstate access price reductions AT&T is attempting to extort from the Commission will harm universal service because these reductions will cut the implicit support that flows from interstate access charges to preserve and advance universal service.

To suggest that the proposed flat charges cannot exceed the existing flat charges AT&T pays for universal service funding is borderline disingenuous. The existing flat charges are set at a level to recover approximately \$1.2 billion for the interstate universal service fund and weighted dial equipment minutes (DEM). In SBC, BellSouth, and Pacific Telesis' interim access reform proposal, the usage-

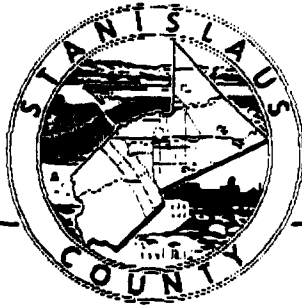
based access charges for carrier common line (CCL), long-term support (LTS), switch line port, and the unallocated share of transport interconnection charge (TIC) would be decreased by almost \$6.2 billion and would be recovered with the new flat charge. The flat charge in the interim proposal will obviously exceed the existing flat charge, however, interexchange carriers will also receive \$6.2 billion in reduced usage charges. Interstate long distance prices recover the usage charges as well as the current flat charges. The access price restructure proposed by SBC would be revenue-neutral to the interexchange carriers' long distance prices.

The bottom line to AT&T's letter: the price reductions it proposes are revenue-neutral to its firm, but will financially harm its competitors and jeopardize universal service. AT&T has failed to commit to the types of price reductions that could be produced by a competitive long distance market. The Commission must remain focused on its obligation to ensure the preservation and advancement of universal service and cannot be distracted by the saber-rattling tactics of one segment of the industry.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Dale Robertson".

Dale (Zeke) Robertson
Senior Vice President



Stanislaus County

DEPARTMENT OF MANAGEMENT INFORMATION SERVICES

SUNSHINE PERIOD

Administration Building
1100 H Street, Rm. 1
Modesto, California 95354-2382
Phone (209) 525-6397
Fax (209) 525-5930

May 5, 1997

RECEIVED

MAY 6 1997

Commissioner Susan Ness
Federal Communications Commission
1919 M Street NW Room 814
Washington, DC 20554

Received by [illegible]
Date of Receipt [illegible]

Re: Ex parte contact in CC Docket Nos. 96-45 and 96-262

Dear Commissioner Ness:

We understand that the FCC is considering a proposal to increase the business line Subscriber Line Charge and to impose a new charge, reportedly called a FERRO, of at least \$4.50 per line per month to support extending new telecommunications capabilities to schools, libraries and rural health care facilities. At the same time that it is considering imposing these new costs on American businesses, we are told that the Commission will not take the long overdue step of bringing rates closer to the true economic cost of local access services.

I urge you not to adopt the foregoing proposals which would, in effect, impose a new tax on American businesses, regardless of whether it is characterized as a "rate rebalancing" or "modification of rate structures". With all due respect, we believe that the imposition of such taxes is the business of the people's representatives, not the appointed officials. Moreover, nationwide educational and health care initiatives should be considered on a comprehensive basis by all interested authorities, not just as a telecommunications matter by the FCC.

The time has come for the Commission to reform its rules governing access charges, which are more than \$3 billion a year higher than they should be. All consumers, businesses as well as residential, deserve protection from excessive monopoly prices. The Administration's social policy agenda should be address in other ways and not get in the way of these reforms.

Sincerely,

Charles Wright, MIS Director



Stanislaus County

DEPARTMENT OF MANAGEMENT INFORMATION SERVICES

Administration Building
1100 H Street, Rm. 1
Modesto, California 95354-2382
Phone (209) 525-6397
Fax (209) 525-5930

May 5, 1997

SUNSHINE PERIOD RECEIVED

Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street NW Room 814
Washington, DC 20554

MAY 6 1997

Federal Communications Commission
Office of Secretary

Re: Ex parte contact in CC Docket Nos. 96-45 and 96-262

Dear Commissioner Chong:

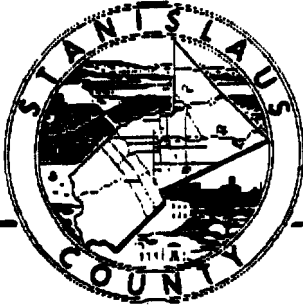
We understand that the FCC is considering a proposal to increase the business line Subscriber Line Charge and to impose a new charge, reportedly called a FERRO, of at least \$4.50 per line per month to support extending new telecommunications capabilities to schools, libraries and rural health care facilities. At the same time that it is considering imposing these new costs on American businesses, we are told that the Commission will not take the long overdue step of bringing rates closer to the true economic cost of local access services.

I urge you not to adopt the foregoing proposals which would, in effect, impose a new tax on American businesses, regardless of whether it is characterized as a "rate rebalancing" or "modification of rate structures". With all due respect, we believe that the imposition of such taxes is the business of the people's representatives, not the appointed officials. Moreover, nationwide educational and health care initiatives should be considered on a comprehensive basis by all interested authorities, not just as a telecommunications matter by the FCC.

The time has come for the Commission to reform its rules governing access charges, which are more than \$3 billion a year higher than they should be. All consumers, businesses as well as residential, deserve protection from excessive monopoly prices. The Administration's social policy agenda should be address in other ways and not get in the way of these reforms.

Sincerely,

Charles Wright, MIS Director



Stanislaus County

DEPARTMENT OF MANAGEMENT INFORMATION SERVICES

Administration Building
1100 H Street, Rm. 1
Modesto, California 95354-2382
Phone (209) 525-6397
Fax (209) 525-5930

May 5, 1997

SUNSHINE PERIOD

RECEIVED

MAY 6 1997

Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street NW Room 814
Washington, DC 20554

Federal Communications Commission
Office of Secretary

Re: Ex parte contact in CC Docket Nos. 96-45 and 96-262

Dear Commissioner Chong:

We understand that the FCC is considering a proposal to increase the business line Subscriber Line Charge and to impose a new charge, reportedly called a FERRO, of at least \$4.50 per line per month to support extending new telecommunications capabilities to schools, libraries and rural health care facilities. At the same time that it is considering imposing these new costs on American businesses, we are told that the Commission will not take the long overdue step of bringing rates closer to the true economic cost of local access services.

I urge you not to adopt the foregoing proposals which would, in effect, impose a new tax on American businesses, regardless of whether it is characterized as a "rate rebalancing" or "modification of rate structures". With all due respect, we believe that the imposition of such taxes is the business of the people's representatives, not the appointed officials. Moreover, nationwide educational and health care initiatives should be considered on a comprehensive basis by all interested authorities, not just as a telecommunications matter by the FCC.

The time has come for the Commission to reform its rules governing access charges, which are more than \$3 billion a year higher than they should be. All consumers, businesses as well as residential, deserve protection from excessive monopoly prices. The Administration's social policy agenda should be address in other ways and not get in the way of these reforms.

Sincerely,

Charles Wright, MIS Director

SUNSHINE PERIOD

RECEIVED
OFFICE OF
COMMISSIONER
FEDERAL COMMUNICATIONS COMMISSION

APR 29 2 23 PM '97

HDR

April 28, 1997

Commissioner Susan Ness
Federal Communications Commission
1919 M St. NW Room 832
Washington, DC 20554

Re: Ex parte contact in CC Docket Nos. 96-45 and 96-262

Dear Commissioner Ness:

I am writing on behalf of my company, HDR, Inc., to gain your support **not** to increase business line subscriber line charges and impose FERO. As I understand the proposal, it will add about \$4.50 per line per month, representing an annual cost increase to HDR of more than \$50,000. These increases purportedly are to accommodate extending new telecommunications capabilities to schools, libraries and rural health facilities. Although these are worthy goals, they have little to do with the actual cost of these services. At the same time the FCC is considering imposing these new costs on our business, I am being told that the Commission will not take the long overdue step of bringing rates closer to the true economic cost of local access services.

I urge you not to adopt the foregoing proposals. Whether they are characterized as "rate rebalancing" or "modification of rate structures", they are in fact a new tax on American businesses. With all due respect, I believe the imposition of such taxes is the business of the people's representatives, not appointed officials. Moreover, nationwide educational and healthcare initiatives should be considered on a comprehensive basis by all interested authorities, as they are not just a matter for the FCC.

I also urge the Commission to reform its rules governing access charges. All consumers, businesses as well as residential consumers, deserve protection from excessive monopoly pricing. This issue has been talked about for too long and is costing the consumer about \$3 billion more than it should. The Administration's social policy agenda should be addressed in other ways and not get in the way of these reforms.

Sincerely,

HDR, INC.


Angelo Privitera

Vice President

Information Services & Technologies

HDR, Inc.

Employee-owned

8404 Indian Hills Drive
Omaha, Nebraska
68114-4049

Telephone
402 399-1000

Architecture
Engineering
Project Development

RECEIVED
MAY 6 1997

SUNSHINE PERIOD

April 24, 1997

Commissioner James H. Quello
Federal Communications Commission
1919 M St. NW Room 802
Washington DC 20554

Dear Commissioner Quello,

In Reference to: Ex Parte contact in CC Docket Nos. 96-45 and 96-262.

It has come to our attention that the FCC is considering a proposal to increase the business line Subscriber Line Charge and to impose a new charge, reportedly called a FERO, of at least \$4.50 per line per month to support extending new telecommunications capabilities to schools, libraries and rural health care facilities. Concurrently, while the FCC is considering imposing these new costs on American businesses and adjusted costs to residential telephone users, we understand the Commission will not take the long overdue step of bringing rates closer to the true economic cost of local access services.

We urge you not to adopt the foregoing proposals which would, in effect, impose a new tax on American businesses, regardless of whether it is characterized as a "rate rebalancing" or "modification of rate structures." With all due respect, we believe that the imposition of such taxes is the business of the people's representatives, not appointed officials. In addition, nationwide educational and health care initiatives should be considered on a comprehensive basis by all interested authorities, not just the telecommunications matter by the FCC.

It is time for the Commission to reform its rules governing access charges, which amount to more than \$3 billion a year higher than they should be. All consumers, businesses as well as residential, deserve protection from excessive monopoly prices. The Administration's social policy agenda should be addressed in other ways and not get in the way of these reforms.

Sincerely,

A handwritten signature in cursive script that reads "Janna L. Harvey".
Janna L. Harvey
Director Telecommunications



**MCI Communications
Corporation**

1801 Pennsylvania Avenue, NW
Washington, DC 20006
202 887 2375

Kimberly M. Kirby
Senior Manager
FCC Affairs

SUNSHINE PERIOD

RECEIVED

MAY 6 1997

**Federal Communications Commission
Office of Secretary**

May 5, 1997

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, NW Room 222
Washington, DC 20554

Re: Ex Parte Presentation in CC Docket No. 96-262 and CC Docket No. 96-45

Dear Mr. Caton:

Please file the attached document, transmitted via e-mail (electronic mail) from Mary Brown to Dan Gonzalez on May 4, 1997, as part of the record in this proceeding. This information was requested by the Office of Commissioner Chong and will therefore not count against MCI's page limit in this proceeding.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206(a)(1) of the Commission's rules the next business day.

Sincerely,

Kimberly M. Kirby

Attachment

cc: Regina Keeney
Tom Boasberg
John Nakahata
Jim Coltharp
Jim Casserly
Dan Gonzalez
Kathy Franco
Larry Atlas

Draft MCI Mail
Subject: MCI Ex Parte -- Access Charges/Chong

To: dan gonzalez|EMS: Internet|MBX: dgonzalez@fcc.gov
cc: james casserly|EMS: Internet|MBX: jcasserly@fcc.gov
cc: regina keeney|EMS: Internet|MBX: rkeeney@fcc.gov
cc: james coltharp|EMS: Internet|MBX: jcoltharp@fcc.gov
cc: tom boasberg|EMS: Internet|tboasberg@fcc.gov
cc: john nakahata|EMS: Internet|jnakahata@fcc.gov
cc: larry atlas|EMS: Internet|MBX: latlas@fcc.gov
Subject: MCI Ex Parte -- Access Charges/Chong

Dan Gonzalez
Legal Advisor
Office of Commissioner Chong
Federal Communications Commission
1919 M St. NW
Washington, D.C. 20554

Re: EX PARTE in CC Docket No. 96-262 and CC Docket No. 94-1

Dear Dan:

Pursuant to your request, MCI is reiterating its views on the policy reasons supporting a downward adjustment in price cap index levels, as well as the legal authority for making such an adjustment.

MCI has been assiduously working for the past two years to convince the Commission that its 1995 interim price cap decision produced rates that were too high relative to trends in incumbent local exchange carrier (ILEC) productivity, as well as failing to move access charges toward levels that would be reflected in a competitive market. The passage of the Telecommunications Act of 1996 caused the Commission to set aside its active consideration of this long-pending docket, and to schedule its price cap review to coincide with its May 1997 review of access and universal service reform. This decision, while a matter of Commission discretion by law, has caused long distance carriers to overpay access charges by potentially billions of dollars. The long distance industry, and long distance ratepayers, should not be disadvantaged by Commission's decision to defer action on the price cap review docket.

Many parties in the access reform proceeding -- consumer groups, business users, the Department of Justice, the National Telecommunications and Information Administration, and other long distance companies -- agree that today's access rates far exceed the level that would be found in true competition existed in the local exchange and exchange access market. As you know, MCI has advocated that price cap ILECs be subject to a price cap productivity offset of 10 percent, and a coalition of consumers, business users, and long distance companies have recommended an offset of 9 percent.

MCI believes that, as part of access reform, the Commission should finalize its review of the price cap productivity offset by substantially increasing the offset. We further believe that the Commission should make a one-time, prospective adjustment to the price cap indices to reflect that the interim

price cap productivity offsets were too low since 1995.

As part of our examination of this issue, MCI has also been asked to discuss the legal authority for requiring a one-time, prospective downward adjustment in the price cap indexes to reflect the differential between the interim productivity factors and a larger price cap productivity factor that the Commission might adopt as part of access reform.

The Commission's Interim Price Cap Order was upheld by the D.C. Circuit against a plethora of legal challenges. *Bell Atlantic Telephone Companies v. FCC*, 79 F.3d 1195 (D.C. Cir. 1996). In particular, the appellate court rejected attacks on the Commission's decision to continue to set the productivity factor only on an interim basis until better productivity data were developed. *Id.* at 1203. None of the petitioners argued that the Commission lacked legal authority under the Communications Act to take this approach, and they should not be heard now to complain that the Commission proposes to do exactly what it said it would do.

A decision in 1997 to adjust access rates for the two years in which the productivity factor has been too low is not a refund, but a one-time downward adjustment to the price cap to ensure that the price cap ILECs are facing the correct set of price incentives prospectively. This is different than the Commission's 1995 decision to make a one-time prospective price cap index adjustment to account for its 1995 finding that the productivity factor selected in the initial price cap decision in 1990 was erroneously low. In both cases, the purpose of the adjustment is to ensure that price cap ILECs face the correct incentives for productivity growth.

It is not surprising that no price cap ILEC challenged the Commission's authority to prescribe an interim productivity factor subject to a later upward or downward adjustment because its authority to do so is settled. Section 4(i) confers authority for the Commission to order refunds if interim rates turn out to be too high, or higher rates if interim rates turn out to be too low. *Virgin Islands Tel. Corp. v. FCC*, 989 F.2d 1231, 1233-34 (D.C. Cir. 1993); *Lincoln Tel. & Tel. Co. v. FCC*, 659 F.2d 1092, 1107-08 & n.76 (D.C. Cir. 1981) (section 4(i) gives Commission authority to establish interim arrangement "subject to later adjustment") (citing *United States v. Southwestern Cable Co.*, 392 U.S. 157 (1968), and *Trans Alaska Pipeline Rate Cases*, 436 U.S. 631, 654-655 (1978) (approving DOT's establishment of interim rate refund mechanism notwithstanding absence of express statutory authority). Section 4(i) applies in the price cap context as well as in a ratemaking context.

The rule against retroactive ratemaking has no application to a Commission decision to adjust price cap levels down on a going-forward basis. That rule is intended to address situations in which an agency order may require a carrier to make refunds if its rates were subsequently determined to be too high, but to deny them additional compensation if its rates were later determined to be too low. *Virgin Islands Tel. Corp. v. FCC*, 989 F.2d 1231, 1233 (D.C. Cir. 1993); *AT&T v. FCC*, 836 F.2d 1386, 1389 (D.C. Cir. 1988). Here, no such potential unfairness exists because the Interim Price Cap Order gave price cap ILECs an opportunity to obtain additional revenues for prior years. Indeed, many of the price cap ILECs selected the highest productivity factor and had the opportunity to earn and retain earnings to whatever level achieved. Even those price cap ILECs that did not select 5.3 as a productivity factor had an opportunity to earn and retain earnings several

percentage points higher than the prescribed 11.25 percent cost of capital that is the benchmark for price cap sharing mechanisms. This kind of two-way true-up is an "obvious example" of a scheme consistent with standard ratemaking principles. *Virgin Islands Tel. Corp. v. FCC*, 989 F.2d 1231, 1234 (D.C. Cir. 1993) (internal citations omitted).

MCI is hopeful that as part of the access reforms that the Commission will adopt, beginning with its initial decision on May 7, 1997, the current unjustified, above-cost level of interstate access charges will be recognized, and corrective steps taken to avoid what will otherwise be an impediment to local and long distance competition. As the NTIA ex parte of April 24, 1997, stated: a decision to increase the price cap productivity factor, and to make a one-time, prospective adjustment to the price cap index to reflect that the productivity offset has been too small for two years, would make an initial "down payment" against overcharges that long distance ratepayers have shouldered.

Sincerely,

Mary L. Brown

cc: Tom Boasberg
John Nakanata
James Coltharp
James Casserly
Regina Keeney
Larry Atlas



SBC Communications Inc.
WASHINGTON, D.C.

F A X C O V E R S H E E T

DATE: May 5, 1997

TIME: 4:50 PM

TO: COMMISSIONER RACHELLE B. CHONG
MR. DAN GONZALEZ

FROM: Todd F. Silbergeld
SBC Communications Inc.

PHONE: 202-326-8888
FAX: 202-408-4806

RE: Courtesy Copy of May 5, 1997 Ex Parte Letter

Total Number of pages including cover sheet: 4

Message

URGENT FAX! PLEASE DELIVER IMMEDIATELY!



Todd F. Silbergeld
Director-
Federal Regulatory

SBC Communications Inc.
1401 I Street, N.W.
Suite 1100
Washington, D.C. 20005
Phone 202 526-8888
Fax 202 408-4806

May 5, 1997

EX PARTE

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

SUNSHINE PERIOD RECEIVED
MAY 6 1997

Federal Communications Commission
Office of Secretary

Re: *In the Matters of Federal-State Joint Board on Universal Service and
Access Charge Reform, CC Docket Nos. 96-45 and 96-262*

Dear Mr. Caton:

Please be advised that today the attached letter was delivered on behalf of SBC Communications Inc. and its subsidiaries to Chairman Reed E. Hundt and Commissioners Quello, Ness and Chong.

Please associate this letter and the attachments with the above-referenced rule making dockets. In accordance with Commission procedure, an original and one copy of this document are provided for your use.

Very truly yours,

Todd F. Silbergeld

Attachment

cc: Chairman Reed E. Hundt
Commissioner James H. Quello
Commissioner Rachelle B. Chong
Commissioner Susan Ness
Mr. Boasberg
Mr. Coltharp
Mr. Casserly
Mr. Gonzalez
Ms. Keeney



Dale (Zeke) Robertson
Senior Vice President

SBC Telecommunications, Inc.
1401 I Street, N.W.
Suite 1100
Washington, D.C. 20005
Phone 202 328-8836
Fax 202 289-3899

May 5, 1997

EX PARTE

The Honorable Reed E. Hundt, Chairman
The Honorable James H. Quello, Commissioner
The Honorable Susan Ness, Commissioner
The Honorable Rachelle B. Chong, Commissioner
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: *In the Matters of Federal-State Joint Board on Universal Service and
Access Charge Reform, CC Docket Nos. 96-45 and 96-262*

Dear Mr. Chairman and Commissioners:

AT&T's May 3, 1997 letter to the Chairman regarding its commitment to flow through access charge reductions is a continuation of its strategy to maximize its own benefits at the expense of others. In the past, AT&T threatened to deaverage nationwide toll prices if it didn't get the action it wanted from the Commission. Now that the Telecommunications Act of 1996 has taken that ploy away, AT&T has chosen residential price increases as its new method of "twisting the Commission's arm." The problem is that things just don't add up. Using the Commission to financially harm incumbent local exchange carriers not only damages AT&T's competitors, but it also will damage the major providers of universal service. Both results are completely contrary to the goals of the 1996 Act.

The Commission is obligated to replace implicit universal service support with explicit support. To accomplish this task requires quantifying the current level of universal service support that exists in interstate prices, removing it, and providing explicit funding. This critical task remains to be completed. The interstate access price reductions AT&T is attempting to extort from the Commission will harm universal service because these reductions will cut the implicit support that flows from interstate access charges to preserve and advance universal service.

To suggest that the proposed flat charges cannot exceed the existing flat charges AT&T pays for universal service funding is borderline disingenuous. The existing flat charges are set at a level to recover approximately \$1.2 billion for the interstate universal service fund and weighted dial equipment minutes (DEM). In SBC, BellSouth, and Pacific Telesis' interim access reform proposal, the usage-

May 5, 1997

Page 2

based access charges for carrier common line (CCL), long-term support (LTS), switch line port, and the unallocated share of transport interconnection charge (TIC) would be decreased by almost \$6.2 billion and would be recovered with the new flat charge. The flat charge in the interim proposal will obviously exceed the existing flat charge, however, interexchange carriers will also receive \$6.2 billion in reduced usage charges. Interstate long distance prices recover the usage charges as well as the current flat charges. The access price restructure proposed by SBC would be revenue-neutral to the interexchange carriers' long distance prices.

The bottom line to AT&T's letter: the price reductions it proposes are revenue-neutral to its firm, but will financially harm its competitors and jeopardize universal service. AT&T has failed to commit to the types of price reductions that could be produced by a competitive long distance market. The Commission must remain focused on its obligation to ensure the preservation and advancement of universal service and cannot be distracted by the saber-rattling tactics of one segment of the industry.

Very truly yours,



Dale (Zeke) Robertson
Senior Vice President



Todd F. Silbergeld
Director-
Federal Regulatory

SBC Communications Inc.
1401 I Street, N.W.
Suite 1100
Washington, D.C. 20005
Phone 202 328-8888
Fax 202 408-4808

SUNSHINE PERIOD RECEIVED
MAY 6 1997

May 5, 1997

EX PARTE

Federal Communications Commission
Office of Secretary

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: *In the Matters of Federal-State Joint Board on Universal Service and
Access Charge Reform, CC Docket Nos. 96-45 and 96-262*

Dear Mr. Caton:

Please be advised that today the attached letter was delivered on behalf of SBC Communications Inc. and its subsidiaries to Chairman Reed E. Hundt and Commissioners Quello, Ness and Chong.

Please associate this letter and the attachments with the above-referenced rule making dockets. In accordance with Commission procedure, an original and one copy of this document are provided for your use.

Very truly yours,

Attachment

cc: Chairman Reed E. Hundt
Commissioner James H. Quello
Commissioner Rachelle B. Chong
Commissioner Susan Ness
Mr. Boasberg
Mr. Coltharp
Mr. Casserly
Mr. Gonzalez
Ms. Keeney



Dale (Zeke) Robertson
Senior Vice President

SBC Telecommunications, Inc.
1401 I Street, N.W.
Suite 1100
Washington, D.C. 20005
Phone 202 526-8836
Fax 202 289-3699

May 5, 1997

EX PARTE

The Honorable Reed E. Hundt, Chairman
The Honorable James H. Quello, Commissioner
The Honorable Susan Ness, Commissioner
The Honorable Rachelle B. Chong, Commissioner
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: *In the Matters of Federal-State Joint Board on Universal Service and
Access Charge Reform, CC Docket Nos. 96-45 and 96-262*

Dear Mr. Chairman and Commissioners:

AT&T's May 3, 1997 letter to the Chairman regarding its commitment to flow through access charge reductions is a continuation of its strategy to maximize its own benefits at the expense of others. In the past, AT&T threatened to deaverage nationwide toll prices if it didn't get the action it wanted from the Commission. Now that the Telecommunications Act of 1996 has taken that ploy away, AT&T has chosen residential price increases as its new method of "twisting the Commission's arm." The problem is that things just don't add up. Using the Commission to financially harm incumbent local exchange carriers not only damages AT&T's competitors, but it also will damage the major providers of universal service. Both results are completely contrary to the goals of the 1996 Act.

The Commission is obligated to replace implicit universal service support with explicit support. To accomplish this task requires quantifying the current level of universal service support that exists in interstate prices, removing it, and providing explicit funding. This critical task remains to be completed. The interstate access price reductions AT&T is attempting to extort from the Commission will harm universal service because these reductions will cut the implicit support that flows from interstate access charges to preserve and advance universal service.

To suggest that the proposed flat charges cannot exceed the existing flat charges AT&T pays for universal service funding is borderline disingenuous. The existing flat charges are set at a level to recover approximately \$1.2 billion for the interstate universal service fund and weighted dial equipment minutes (DEM). In SBC, BellSouth, and Pacific Telesis' interim access reform proposal, the usage-

May 5, 1997
Page 2

based access charges for carrier common line (CCL), long-term support (LTS), switch line port, and the unallocated share of transport interconnection charge (TIC) would be decreased by almost \$6.2 billion and would be recovered with the new flat charge. The flat charge in the interim proposal will obviously exceed the existing flat charge, however, interexchange carriers will also receive \$6.2 billion in reduced usage charges. Interstate long distance prices recover the usage charges as well as the current flat charges. The access price restructure proposed by SBC would be revenue-neutral to the interexchange carriers' long distance prices.

The bottom line to AT&T's letter: the price reductions it proposes are revenue-neutral to its firm, but will financially harm its competitors and jeopardize universal service. AT&T has failed to commit to the types of price reductions that could be produced by a competitive long distance market. The Commission must remain focused on its obligation to ensure the preservation and advancement of universal service and cannot be distracted by the saber-rattling tactics of one segment of the industry.

Very truly yours,



Dale (Zeke) Robertson
Senior Vice President